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SOURCE Informativni prirucnik o Jugoslaviji, Book 1, 1948.

DEVELOPMENT AND ORGANIZATION OF THE JUDICIARY IN YUGOSLAVIA

[The following report, signed S. V., is one of several taken from Informativni prirucnik o Jugoslaviji, a handbook published irregularly since late 1948 by the Yugoslav Directorate for Information.]

Development of the Judiciary During the National Liberation War

During the National Liberation War, the Yugoslav people destroyed the judiciary organization of prewar Yugoslavia and started creating a new people's judiciary which had no connection with the judiciary machinery or organization of prewar Yugoslavia.

Although there were no regulations governing judiciary organization at the beginning of the people's uprising, the judicial function was conducted on the basis of the struggle against the enemy and against domestic traitors.

The first court actions during the insurrection were conducted by military leaders, or by councils of local citizens acting under the direction of military leaders. Enemies of the people, traitors, spies, and the like were tried.

When the national liberation councils began to be established and assumed authority in liberated territory, judicial councils were established to exercise court functions under the direction of members of the liberation councils.

Yugoslavia had a parallel development of civil and military courts. The latter had exclusive jurisdiction over cases of war criminals, enemies of the people, and spies.

In September 1942, the Supreme Command organized military courts into brigade courts, battalion courts, and provincial (podrucji) commands. These courts functioned as a council of three persons, one of whom was an active soldier.

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Before the second session of the AVNOJ (Antifascist National Liberation Council of Yugoslavia) on 29 November 1943, there were special judicial councils in the national liberation councils which acted as civil courts. After the second session of the AVNOJ, special judicial organs separate from the national liberation councils began to be formed.

The 19 May 1944 directives of the National Liberation Council of Yugoslavia ordered the establishment of special judiciary organs, the people's courts, throughout the liberated territory. These were to be completely separate from the national liberation councils. The directives stipulated that people's courts were to try all criminal acts over which military courts did not have jurisdiction. The directives stipulated that they were to be elected bodies, that they were to function as a council, and that they were to be independent.

The Provisional People's Assembly of Yugoslavia formally sanctioned this organization with the Law on the Organization of People's Courts of 26 August 1945, and the Constitution of Yugoslavia, adopted on 31 January 1946, laid down in Chapter XIII (Article 115 - 123), the basic principles for the organization of the people's courts. The Presidium of the People's Assembly confirmed the law, with changes and amendments, by its decree of 21 June 1946. This law became effective on 25 June 1946 and is still effective.

#### Yugoslav Courts and Their Functions

Judiciary functions in Yugoslavia are exercised by the following courts: the Supreme Court of Yugoslavia, the supreme courts of the republics and the autonomous province of the Vojvodina, and the okrug (district) and srez courts.

The okrug and srez courts are mainly courts of first instance and as a rule try all civil and criminal cases. As courts of first instance, the srez courts try minor criminal and less important civil cases, while the okrug courts try all major criminal cases and civil cases of major importance. The okrug courts are courts of second instance in relation to srez courts.

The supreme courts of the republics and of the autonomous province are courts of second instance for district courts. The federal Supreme Court is the highest court and rules on problems of legality, issues directives on the application of laws, makes decisions in cases of disputed jurisdiction, and supervises all courts.

The main functions of the courts are as follows:

1. To protect state and social organization, to protect the rights and legally protected interests of establishments, enterprises, and organizations; and to protect the personal and property rights and legally protected interests of individuals.
2. To insure strict observance of laws and legal regulations by all establishments, enterprises, organizations, officials, and individuals.
3. To educate citizens in a spirit of loyalty to the country, compliance with the law, and honest exercise and discharge of their rights and duties.

#### Selection of Judges by Election

Judges are elected in Yugoslavia. Every citizen who is of age and has not been deprived of his civil rights may be elected a judge or judge-juror. Judges and judge-jurors are elected or dismissed by the people's executive councils and the people's assemblies.

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The federal People's Assembly in a joint meeting of both its houses elects or dismisses the president, vice-president, and judges of the Supreme Court of Yugoslavia. The people's assembly of the republic or autonomous province concerned elects or dismisses the president, vice-president, and judges of its supreme court.

The okrug assembly of delegates from the srez and city people's councils in the okrug concerned elects or dismisses the president, judges, and judge-jurors of the okrug court. The people's council of the srez or city elects or dismisses the president, judges, and judge-jurors of the srez court in the srez or city concerned. The Law on the Organization of People's Courts stipulates the conditions and procedure of dismissing judges or judge-jurors.

The law requires the okrug and srez courts to make periodic reports on their work to the organs which have elected them to enable these organs to exercise their authority with regard to dismissal of judges and to emphasize the fact that the courts are responsible to the people.

#### Court Councils

All courts try cases in councils. When acting as courts of first instance, the councils of okrug and srez courts consist of a judge and two judge-jurors, who have equal authority. The councils of supreme courts consist of three judges even when acting as courts of first instance. When acting as courts of second instance, court councils consist of three judges. Since courts of second instance cannot change actual facts established by courts of first instance but can only annul their judgments, the judge-juror system is deprived of none of its full meaning.

#### The Participation of Judge-Jurors in Court Proceedings

Judge-jurors participate in trials of criminal and civil cases. Their election does not depend on their ancestry, position, or any special privileges.

The difference between judges and judge-jurors is that the former act in that capacity as their regular occupation, while judge-jurors act in that capacity temporarily, for 15 days out of the year, retaining their regular occupations.

#### Independence of the Courts

The courts are independent, acting only in accordance with the law. Being separated completely from the administration, courts cannot be influenced in making decisions.

#### Equality of Citizens Before the Courts

All citizens are equal before the courts, regardless of sex, nationality, race, creed, origin, social or financial position, or education. Equality of citizens before the law and before the courts is guaranteed in Yugoslavia by the economic and political organization of the state, by the abolition of exploitation of man by man, the participation of the people in the exercise of authority, the proper solution of the nationalities problem, the genuine equality of man and woman, the separation of church from state, and the fact that every individual is given an opportunity for cultural development.

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Court proceedings are public as a rule. Court proceedings may be attended not only by persons directly involved in the proceedings but also by persons not directly concerned.

Added to the basic organizational principles outlined above are the principles of trial by due process, the right to be defended, and the right to appeal.

Number of Courts, Judges, and Judge-Jurors

Yugoslavia has one federal Supreme Court, six republic supreme courts, one supreme court in the autonomous province, 61 okrug courts, and 359 srez courts, or a total of 428 courts.

Although the law provided for a supreme court, a Court of Cassation, in prewar Yugoslavia, it was never established, but there were individual courts of cassation in Belgrade, Zagreb, Ljubljana, Sarajevo, Novi Sad, and Titograd. There were also appeals, district, and srez courts.

There are 1,584 judges in all the courts, of whom 1,537 are men and 47 women. There were about 1,700 judges in prewar Yugoslavia, but no woman could be a judge.

There are 49,446 judge-jurors in all the courts, of whom 43,253 are men and 6,193 women. Jury trials did not exist in prewar Yugoslavia.

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